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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,856	06/21/2000	Erik Rucker	40062.0177US01	6692
27488 7590 01/19/2012 MERCHANT & GOULD (MICROSOFT) P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER HUTTON JR, WILLIAM D				
ART UNIT		PAPER NUMBER		
2176				
MAIL DATE		DELIVERY MODE		
01/19/2012		PAPER		

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIK RUCKER, ETHAN BERNSTEIN, and ALAN RAMALEY

Appeal 2009-008277¹
Application 09/598,856
Technology Center 2100

Before JEAN R. HOMERE, THU A. DANG, and JAMES R. HUGHES,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ The real party in interest is Microsoft Corp. (App. Br. 2.)

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-14 and 16-28. Claim 15 has been canceled. (App. Br. 4.)² We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' Invention

Appellants invented a method and system for enabling multiple users to simultaneously edit an original electronic document at a remote location, wherein users' individual changes thereto are synchronized. (Spec. 1, ll. 15-19.) In particular, upon determining that the original document is open by a second user having exclusive rights to save changes therein, a first user is provided with a local copy of the original document to save changes, which are subsequently merged with the original document when it becomes available. (Spec. 3, ll. 6-29.)

² The "Status of Claims" section of the Appeal Brief indicates that only independent claims 1, 5, 13, and 21 are subject to this appeal. (App. Br. 4) Further, the "Grounds of Rejection to be Reviewed on Appeal" and the "Argument" sections of the Appeal Brief only address the rejections directed to the independent claims thereby indicating Appellants' clear intent to appeal at least the cited claims in this appeal. However, because the notice of appeal specifically lists all the claims (1-14 and 26-28) pending in this application as being the subject matter from which the appeal is taken, we have jurisdiction over the rejection of claims 1-14, and 16-28, which will stand or fall with independent claims 1, 5, 13, and 21 in this appeal.

Illustrative Claim

Independent claim 1 further illustrates the invention. It reads as follows:

1. A method for enabling simultaneous multi-user editing of an original document, the method comprising the steps of:

receiving a request from a first user to open the original document;

determining whether the original document is open at a second user, wherein the second user has exclusive rights to save the original document while the original document is open at the second user;

in response to a determination that the original document is open at the second user, creating a local copy and storing a path of the original document with the local copy;

in response to the receipt of a request to save changes to the local copy, determining whether the original document is still open at the second user;

in response to a determination that the original document is not still open at the second user, identifying a location for the original document using the stored path and merging the local copy with the original document;

in response to a determination that the original document is still open at the second user, prompting the first user to decide between saving the local copy with the path of the original document such that a subsequent merge of the saved local copy and the original document can be performed, and

saving the local copy as a separate file as compared to the original document.

Prior Art Relied Upon

Moody	US 5,890,177	Mar. 30, 1999
Thorne	US 5,958,005	Sep. 28, 1999
Brown	US 6,067,551	May 23, 2000 (Filed Nov. 14, 1997)
Pham	US 6,560,719 B1	May 6, 2003 (Filed May 17, 2000)
Miller	Pat. App. Pub. No.: US 2005/0055306 A1 Mar. 10, 2005 (Effectively filed Sep. 21, 1999)	

Rejections on Appeal

The Examiner rejects the claims on appeal as follows:

1. Claims 1, 2, 4-6, and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown and Miller.
2. Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Miller, and Pham.
3. Claims 13, 14, 16, and 21-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown and Pham.
4. Claims 3, 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Miller, and Moody.
5. Claims 25 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Pham, and Moody.
6. Claims 11 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Miller, Moody, and Thorne.

7. Claims 27 and 28 stand rejected under 35 U.S.C. 1 03(a) as being unpatentable over Brown, Pham, Moody, and Thorne.
8. Claims 17 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Pham, and Moody.
9. Claims 19 and 20 stand rejected under 35 U.S.C. 1 03(a) as being unpatentable over Brown, Pham, and Thorne.

Appellants' Contentions

Appellants argue that Brown does not teach or fairly suggest upon receiving from a first user a request to access an original document, creating a local copy thereof in response to determining that the document is open at a second user who has exclusive rights to save changes thereto, as recited in independent claim 1. (App. Br. 11-12, Reply Br. 2-4.) According to Appellants, while Brown discloses creating local a copy of an electronic document for a first user, the copy is not created in response to determining that the document is open by a second user who has exclusive rights to save changes thereto. Further, Appellants argue that even if Brown's disclosure of a first user not being allowed access to the document while the second user is saving changes thereto could somehow be construed as determining that the second user has exclusive rights to save changes thereto, it does not create a local copy for the first user in consequence thereof. Instead, it discloses that the first user must wait until the second user has released the lock from the document before the local copy can be created. (*Id.*)

Examiner's Findings and Conclusions

In response, the Examiner finds that Brown's disclosure of a user being unable to access an electric document when the MCF is in a locked mode teaches that the document is opened by another user who has exclusive access thereto. (Ans. 25.) Further, the Examiner finds that Brown's disclosure of creating a local copy of a document in a multi user system teaches that the local copy is created in response to determining that another user has opened the document. (*Id.* at 26.)

Therefore, the pivotal issue before us is as follows:

II. ISSUE

Have Appellants shown that the Examiner erred in finding that Brown teaches or fairly suggests upon receiving from a first user a request to access n original document, creating a local copy thereof in response to determining that the document is open at a second user who has exclusive rights to save changes thereto, as recited in independent claim 1?

III. FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

Brown

1. Brown discloses a system for enabling multiple users to simultaneously edit an electronic document stored on a shared disk on a network. In particular, Brown discloses using a multi-user control file

(MCF) that tracks and coordinates the various versions of the document being edited by respective users. (Col. 2, ll. 50-60.)

2. Brown discloses that when the MCF is in the unlocked mode, none of the users is saving to the master copy. They are then allowed to access the master copy of the document to thereby create local copies thereof for subsequent local editing. (Fig. 2B, Col. 11, ll. 31-37.)

3. However, when the MCF is in the locked mode, one of the users has exclusive rights to save changes therein thereby precluding all others from accessing it. In that case, any user desiring to access the master copy must wait until the MCF returns to the unlocked mode. (Fig. 2A, step 235, Col. 11, ll. 37-42, col. 12, ll. 36-40.)

IV. ANALYSIS

We find error in the Examiner's rejection of independent claim 1, which recites, *inter alia*, upon receiving from a first user a request to access an original document, creating a local copy thereof in response to determining that the document is open at a second user who has exclusive rights to save changes thereto. We agree with the Examiner that Brown's disclosure of the MCF being in the locked mode for the save operation (FF. 3) teaches that another user has exclusive rights for performing a save operation on the electronic document. We further agree with the Examiner that Brown also teaches that users can access the master document to create local copies thereof when the MCF is in the unlocked mode. (FF. 2) We disagree, however, with the Examiner's finding that the different outcome that results when the MCF is in the locked mode as opposed to that ensuing

when the MCF is in the unlocked mode can somehow be combined to teach the disputed limitations. In particular, we agree with Appellants that Brown's disclosure of allowing a user to create a local copy of the master document (when the MCF is in the unlocked mode) is not in response to determining that the master document is opened by another user (when the MCF is in the locked mode). We find that because these two modes of operation are mutually exclusive, their respective outcomes cannot be combined as a cause and effect sequence of events. Therefore, the Examiner's attempt to combine these two modes to teach the disputed limitations is in error. Further, we agree with Appellants that neither Miller's disclosure nor Pham's cures the noted deficiencies in Brown.

Because Appellants have shown at least one error in the Examiner's rejection of claim 1, we need not address Appellants' other arguments. It follows that Appellants have shown the Examiner erred in concluding that the combination of Brown and Miller render independent claim 1 unpatentable.

Because claims 2-14, and 16-28 also recite the disputed limitations of claim 1, Appellants have also shown error in the Examiner's rejections of those claims.

V. DECISION

We reverse the Examiner's rejections of claims 1-14 and 16-28 as set forth above.

REVERSED

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